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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,759	02/08/2001	Yuki Nakajima	040356/0354	4157

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EXAMINER

GONZALEZ, JULIO C

ART UNIT

PAPER NUMBER

2834

DATE MAILED: 04/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/778,759

Applicant(s)

NAKAJIMA, YUKI

Examiner

Julio C. Gonzalez

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 24 January 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-11 and 13 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1,2,4-8,10 and 13 is/are rejected.

7) Claim(s) 3,9 and 11 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 08 February 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) Interview Summary (PTO-413) Paper No(s). _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1,2 and 4-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Nagate et al (Patent # 5,864,192).

Nagate et al discloses magnet pole position detector comprising plates 8a of the same number as the magnets 11, three magnetic sensors 16 (see figure 15). The plates been fixed to the rotor and the stator having coils (see figure 14) and a signal based on the flux of the magnetic sensor having a maxima and minima (see figure 33).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagate et al in view of Masuzawa et al.

Nagate et al discloses magnet pole position detector comprising plates 8a of the same number as the magnets 11, three magnetic sensors 16 (see figure 15). The plates been fixed to the rotor and the stator having coils (see figure 14) and a signal based on the flux of the magnetic sensor having a maxima and minima (see figure 33). However, Nagate et al does not disclose that the magnets comprise a pair of magnet components that have equal polarity.

On the other hand, Masuzawa et al discloses for the purpose of changing the magnetic fluxes per magnetic pole freely without changing the position that the magnets comprise a pair of magnet components that have equal polarity (see figure 8A).

It would have been obvious to one having ordinary skill in the art to design rotor with a shaft, magnet and a sensor as disclosed by Nagate et al and to include in each magnet a pair of magnets for the purpose of changing the magnetic fluxes per magnetic pole freely without changing their position as disclosed by Masuzawa et al.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagate et al in view of ordinary skill in the art.

Nagate et al discloses magnet pole position detector comprising plates 8a of the same number as the magnets 11, three magnetic sensors 16 (see figure 15). The plates been fixed to the rotor and the stator having coils (see figure 14) and a signal based on the flux of the magnetic sensor having a maxima and minima (see figure 33). Nagate et al discloses the claimed invention except for sensors been apart 30 degrees. It would have been obvious to one having ordinary skill in the art at the time the

invention was made to come out with that value, since it has been held that discovering the optimum value of result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

Allowable Subject Matter

6. Claims 3, 9 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed 1/24/02 have been fully considered but they are not persuasive.

Claim 1 recites "plates of the same number as the magnets". From the claim, it is not defined as to what are the plates referring to nor the claim defines the shape or the location as to where and what are the plates. The Merriam-Webster's Collegiate Dictionary defines the word plate as a smooth flat thin piece of material. The mere recitation of a plate may be applied to other components that fit the definition of a dictionary since the claim does not define in a concise manner the limitation, plate. As Nagate et al shows in figure 15, there are four plates 8a and four magnets 11. Moreover, the plates are made of magnetic material since a magnetic field is formed by such plates in combination with the magnets.

Anyone with ordinary skill in the art would know that in order to form a magnetic field the plates would have to be of magnetic material (see figure 3).

8. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., plates are part of the detector) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action.

In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio C. Gonzalez whose telephone number is (703) 305-1563. The examiner can normally be reached on M-F (8AM-5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.


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Jcg

April 1, 2002